

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08	CELERINO CARRASCO,)	CASE NO. C06-0074-RSM
)	
09	Petitioner,)	
)	
10	v.)	
)	
11	DEPARTMENT OF HOMELAND)	REPORT AND RECOMMENDATION
	SECURITY, IMMIGRATION AND)	
12	CUSTOMS ENFORCEMENT, and)	
	CORRECTIONAL SERVICE)	
13	CORPORATION,)	
)	
14	Respondents.)	
)	

I. INTRODUCTION AND SUMMARY CONCLUSION

On January 12, 2006, petitioner Celerino Carrasco filed, *pro se*, a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the validity of his final order of removal to Mexico and his detention by the U.S. Immigration and Customs Enforcement (“ICE”). (Dkt. #4). On February 17, 2006, respondents filed a Notice of Imminent Deportation and Motion to Dismiss in Part. (Dkt. #10). Respondents argue that, to the extent petitioner challenges the validity and enforcement of his removal order, this Court lacks subject matter jurisdiction under

01 Section 242(a)(1) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1252(a)(1), as
02 amended by the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005). On
03 March 13, 2006, respondents filed a Superseding Motion to Dismiss for Mootness, notifying the
04 Court that petitioner was deported to Mexico on February 27-28, 2006. (Dkt. #21). Respondents
05 argue that because petitioner is no longer in ICE custody, his detention claims are now moot and
06 therefore, the Court lacks subject matter jurisdiction.

07 **II. DISCUSSION**

08 Judicial review of a removal order is governed by INA § 242, 8 U.S.C. § 1252, as
09 amended by the REAL ID Act of 2005. This statutory provision provides, in part, that the
10 exclusive means of asserting a challenge to a final order of removal and matters dependent
11 thereon, such as the one challenged herein, is to file a Petition for Review with the appropriate
12 court of appeals, which in this case is the Ninth Circuit Court of Appeals. 8 U.S.C. § 1252 (b)(2);
13 (a)(5)(“[A] petition for review filed with an appropriate court of appeals in accordance with this
14 section shall be the sole and exclusive means for judicial review of an order of removal entered or
15 issued under any provision of this chapter”). This provision makes clear that this Court does not
16 have jurisdiction to entertain petitioner’s challenge to his removal order. Accordingly, claims by
17 petitioner in which he challenges his final order of removal may not be considered in this habeas
18 corpus action. Further, to the extent petitioner challenges his detention and his conditions of
19 confinement, petitioner’s claims are now moot because petitioner was removed to Mexico on
20 February 27-28, 2006. (Dkt. #21, Ex. 3; Dkt. #20). *Picrin-Peron v. Rison*, 930 F.2d 773, 774-75
21 (9th Cir. 1991).

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01 III. CONCLUSION

02 For the foregoing reasons, I recommend that respondents' motion to dismiss (Dkt. #21)
03 be granted, and that this action be dismissed. A proposed Order accompanies this Report and
04 Recommendation.

05 DATED this 20th day of April, 2006.

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08 Mary Alice Theiler
09 United States Magistrate Judge
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